IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.
WRIT PETITION NO.4040 OF 2006

Ramnik Khimji Makhecha, .. Petitioner
Vs
Anil Dinamani Shankar Joshi & ors .. Respondents.

Mr Shailendra Kanetkar i/b Mr G.S.Godbole, for the petitioner.

Mr N.B.Shah i/b Mr P.N.Shah, for respondent nos 1 and 2.

CORAM : D.B.BHOSALE,J.
DATE : 11.10.2006

PC:-

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. Mr.Shah, learned counsel, waives service for the respondents. By consent, rule is heard finally.

3. The petitioner has impugned the order dated 21.3.2006, allowing the respondents-plaintiffs to bring on record the eleven documents and exhibiting the same, those being the public documents or the certified copies of the judgments/orders. While issuing notice on 14.8.2006, in the first paragraph of the order, the following observations were made:

> "1. Heard Mr Godbole, the learned counsel for the petitioner. By the impugned order the learned Judge of the trial Court has allowed the application at Exhibit-198 and thereby directed all the 11 documents brought on record by the plaintiffs to be exhibited. Mr Godbole has pointed out the list of these documents and it is

> clear that the documents at sr nos 1 to 4 and 7 to 10 are either the public documents or the copies of the judgments/decisions. However, the same case, prima facie, is not satisfied for the documents at sr nos 5,6 and 11."

Mr Shah, learned counsel for the respondents, submits that after the impugned order was passed, the respondents had filed a pursis closing their evidence. He, therefore, states that if the plaintiffs are permitted to lead evidence to prove the documents at Sr.Nos 5,6 and 11, they have no objection for setting aside the impugned order in respect of those documents. Keeping the aforesaid observations made in the earlier order in view and considering the overall facts of the case, in my opinion, the submission appears to be just and reasonable. Mr Kanetkar, learned counsel for the petitioner, also in all fairness does not press this writ petition, against the order allowing to produce and exhibiting the other documents. In the circumstances, I pass the following order.

(i) This writ petition is partly allowed. The impugned order, insofar as the documents at Sr.Nos.5,6, and 11 are concerned, stands quashed and set aside. It is open for the respondents-plaintiffs to prove the documents at Sr. Nos. 5,6, and 11 in accordance with law. With these observations, the rule is disposed of.

(D.B.BHOSALE,J.)